

81314-1

THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

FILED
COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2007 JUL 31 PM 4:54

STATE OF WASHINGTON,) No. 59626-8-1
Respondent,)
)
v.) MOTION TO
) ABATE APPEAL
)
MICHAEL WEBB,)
Appellant.)

8.7.07
The State shall have until 8/20/07
to file a response, after which the
motion will be considered without
argument.

William H. E.
Commissioner

I. IDENTITY OF MOVING PARTY

Nancy P. Collins, counsel for appellant, upon all files, records and proceedings herein, moves this Court for the relief requested below.

II. STATEMENT OF RELIEF SOUGHT

So that the ends of justice might be served, Appellant moves the Court to abate Mr. Webb's judgment and sentence due to his recent death.

III. FACTS RELEVANT TO MOTION

Michael Webb was convicted of presenting a false insurance claim on February 2, 2007. The court imposed sentence on February 5, 2007. CP 29-37 (Judgment and Sentence attached as Appendix A). He timely filed a notice of appeal. CP 38 (Notice of Appeal attached as App. B). A restitution order was initially issued

but has since been stricken by the trial court. (Court order denying restitution, attached as App. C).

On June 28, 2007, the police found Mr. Webb dead in his home, the apparent victim of a murder by stabbing. See Man Pleads Innocent in Death of Former Talk Show Host, Seattle Post Intelligencer, July 30, 2007 (newspaper article attached as App. D)¹; Carol Smith, Webb Was Killed With an Ax, Seattle Post Intelligencer, July 20, 2007 (attached as App. E).² He had died in April, several months before his body was discovered, according to news reports. Id.

IV. GROUND'S FOR RELIEF AND ARGUMENT

THIS COURT SHOULD ABATE MR. WEBB'S TIMELY FILED APPEAL DUE TO HIS TRAGIC DEATH IN THE COURSE OF THE APPEAL

An appellant's death in the course of a timely filed appeal may abate the action and require dismissal of the conviction. State v. Devin, 158 Wn.2d 157, 162, 167, 142 P.3d 599 (2006); State v. Furth, 82 Wash. 665, 144 P. 907 (1914); State v. Banks, 94 Wash. 237, 161 P. 1189 (1917). The majority of federal and state courts agree the proper response to the death of a criminal defendant

¹ available at
http://seattlepi.nwsource.com/local/6420ap_wa_radio_host_killing.html

² available at
http://seattlepi.nwsource.com/printer2/index.asp?ploc=b&refer=http://seattlepi.nwsource.com/local/324514_webb21.html

during the pendency of an appeal of right is to abate the conviction. Devin, 157 Wn.2d at 170 (federal courts essentially unanimous in abating convictions upon death of appellant in pending appeal, as well as majority of states).

In Devin, the court limited Washington's historic practice of automatically abating an appeal any time an appellant dies in the course of the appeal. 157 Wn.2d at 167. The Devin Court instead ruled that when the appeal was not timely filed, the appellant had no right to appeal at the time of his death, and there is no clear indication that the appellant either wanted to appeal or had meritorious grounds to appeal, abatement will not automatically follow. Id. at 165-67. In *dicta*, the Devin Court further expressed concern that outstanding restitution orders should not be comprised by abating an appeal in the event it will result in a victim who is not adequately compensated for his or her loss. Id. at 167-68, 171-72 (addressing abatement rule as applied to other cases even though we "need not" to decide case).

In the case at bar, Mr. Webb filed a timely notice of appeal. CP 38. There is no pending restitution order that would require the Court to weigh whether the interest of justice warrant abating the conviction and sentence. See App. C. Instead, the circumstances of the case are entirely tragic and merit leniency.

Mr. Webb appears to be the victim of a brutal and horrible murder, stabbed numerous times and left for dead in his own basement. See e.g., App. D and E (newspaper articles describing Mr. Webb's death). His body was not discovered for months. Id. The alleged perpetrator is accused of having stolen Mr. Webb's property and falsely communicating to Mr. Webb's friends and family as a means of ensuring his death would not be discovered. Id. When the police found his body, the remains were "badly decomposed" and could not be readily identified. Levi Pulkkinen, Remains Found at Home of Former Radio Host, Seattle Post Intelligencer, June 28, 2007.³

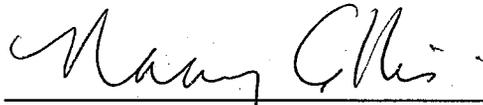
The Rules of Appellate Procedure strongly favor application of principles of justice, encouraging leniency by this Court so that the ends of justice are served. See e.g., RAP 1.2(a), (c). Mr. Webb timely filed a notice of appeal, indicating his intent to dispute the conviction and sentence. CP 38. Unfortunately, Mr. Webb can no longer pursue his appeal because he has been senselessly murdered. Mr. Webb cannot receive any meaningful relief and therefore, it would further waste this Court's resources to fully litigate the merits of the appeal. Under these circumstances, the interests of justice require this Court to abate Mr. Webb's appeal.

³ available at http://seattlepi.nwsourc.com/local/321748_webb29.html.

V. CONCLUSION

Counsel for Mr. Webb respectfully requests this Court enter an order abating *ab initio* Mr. Webb's judgment and sentence.

Respectfully submitted this 31st day of July 2007.



NANCY P. COLLINS (WSBA 28806)
Washington Appellate Project (91052)
Attorneys for Appellant

APPENDIX A

FILED
2007 FEB -5 PM 12:42
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

CERTIFIED COPY TO COUNTY JAIL ~~FEB - 5 2007~~
SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
)
) Plaintiff,) No. 05-1-13591-0 SEA
)
) Vs.)
) Michael Webb) JUDGMENT AND SENTENCE
)) FELONY
)
) Defendant,)

I. HEARING

I.1 The defendant, the defendant's lawyer, Mark Larranaga, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: Detective Randal Woolery

II. FINDINGS

There being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 2/2/07 by Stipulated of Fact-Findings by the Court.

Count No.: I Crime: Fraudulent Insurance Claim
RCW 48.30.230(1)(a), (1)(b) Crime Code: 03206
Date of Crime: 6/30/05 - 8/2/05(1)(b) Incident No. 05-468289

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

Count No.: _____ Crime: _____
RCW _____ Crime Code: _____
Date of Crime: _____ Incident No. _____

[] Additional current offenses are attached in Appendix A

SPECIAL VERDICT or FINDING(S):

- (a) While armed with a firearm in count(s) _____ RCW 9.94A.510(3).
- (b) While armed with a deadly weapon other than a firearm in count(s) _____ RCW 9.94A.510(4).
- (c) With a sexual motivation in count(s) _____ RCW 9.94A.835.
- (d) A V.U.C.S.A offense committed in a protected zone in count(s) _____ RCW 69.50.435.
- (e) Vehicular homicide Violent traffic offense DUI Reckless Disregard.
- (f) Vehicular homicide by DUI with _____ prior conviction(s) for offense(s) defined in RCW 41.61.5055, RCW 9.94A.510(7).
- (g) Non-parental kidnapping or unlawful imprisonment with a minor victim. RCW 9A.44.130.
- (h) Domestic violence offense as defined in RCW 10.99.020 for count(s) _____.
- (i) Current offenses encompassing the same criminal conduct in this cause are count(s) _____ RCW 9.94A.589(1)(a).

2.2 **OTHER CURRENT CONVICTION(S):** Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____

2.3 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

- Criminal history is attached in Appendix B.
- One point added for offense(s) committed while under community placement for count(s) _____

2.4 SENTENCING DATA:

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count	0	UNR	0-365 ds.	—	0-365 days	5 yrs, \$10,000
Count						
Count						
Count						

Additional current offense sentencing data is attached in Appendix C.

2.5 EXCEPTIONAL SENTENCE (RCW 9.94A.535):

Substantial and compelling reasons exist which justify a sentence above/below the standard range for Count(s) _____. Findings of Fact and Conclusions of Law are attached in Appendix D. The State did did not recommend a similar sentence.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

The Court DISMISSES Count(s) _____

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
 - Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(2), sets forth those circumstances in attached Appendix E.
 - Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
 - Date to be set.
 - Defendant waives presence at future restitution hearing(s).
 - Restitution is not ordered.
- Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a) \$ 443.90, Court costs; Court costs are waived; (RCW 9.94A.030, 10.01.160)
- (b) \$100 DNA collection fee; DNA fee waived (RCW 43.43.754)(crimes committed after 7/1/02);
- (c) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs; Recoupment is waived (RCW 9.94A.030);
- (d) \$ 1000, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA; VUCSA fine waived (RCW 69.50.430);
- (e) \$ _____, King County Interlocal Drug Fund; Drug Fund payment is waived; (RCW 9.94A.030)
- (f) \$ _____, State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
- (g) \$ _____, Incarceration costs; Incarceration costs waived (RCW 9.94A.760(2));
- (h) \$ 100, Other costs for: DNA fee

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 2043.90 + Restitution. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month; On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

- Court Clerk's trust fees are waived.
- Interest is waived except with respect to restitution.

4.4 **FIRST TIME OFFENDER WAIVER OF PRESUMPTIVE SENTENCE:** The court waives imposition of a sentence within the presumptive sentence range and imposes the following sentence pursuant to RCW 9.94A.650:

(a) Defendant shall serve a term of confinement as follows, commencing: immediately;
 (Date): _____ by _____ a.m./p.m.:

30 months/days on count I; _____ months/ days on count _____; _____ months/ days on count _____

This term shall be served:

in the King County Jail.

in King County Work/Education Release subject to conditions of conduct ordered this date.

in King County Electronic Home Detention subject to conditions of conduct ordered this date.

For burglary or residential burglary offense, before entering Electronic Home Detention, 21 days must be successfully completed in Work/Education Release.

The terms in Count(s) No. I is converted to _____ are consecutive/concurrent

240 hours of community service, to be completed by 8/2/07.
This sentence shall run CONSECUTIVE CONCURRENT to the sentence(s) in cause _____

If not completed, remainder shall be converted to straight jail time.
The sentence(s) herein shall run CONSECUTIVE CONCURRENT to any other term previously imposed and not referenced in this order.

Credit is given for 2 ^[3] day(s) served days determined by the King County Jail solely for confinement under this cause number pursuant to RCW 9.94A.505(6). Jail term is satisfied; defendant shall be released under this cause.

(b) COMMUNITY SUPERVISION (for crimes committed before 7-1-2000)

COMMUNITY CUSTODY (for crimes after 6-30-2000):

is ordered for 12 months (up to 12 months unless treatment is ordered in which case not more than 24 months). The Defendant shall report to the Department of Corrections within 72 hours of release from custody; or this date if currently out of custody; shall comply with any affirmative acts imposed by the Department to monitor compliance with this sentence; shall comply with all rules, regulations and conditions of the Department for supervision of offenders; and shall not possess any firearm or ammunition; shall perform all affirmative acts necessary to monitor compliance and otherwise comply with the other terms of this sentence. APPENDIX F attached for additional conditions.

(c) COMMUNITY SERVICE: Defendant shall serve 240 days/ hours of community service under supervision of the Department of Corrections to be completed as follows:

On a schedule established by the defendant's Community Corrections Officer or as follows:

to be completed by 8/2/07 - if not, remainder to be completed as straight jail time.

(d) NO CONTACT: For the maximum term of _____ year(s), defendant shall have no contact with _____

Acad Insurance Company, Mailed by Warren Buffet

(e) DNA TESTING. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing, as ordered in APPENDIX G.
[] HIV TESTING: For sex offense, prostitution offense, drug offense associated with the use of hypodermic needles, the defendant shall submit to HIV testing as ordered in APPENDIX G.

(f) OTHER CONDITIONS: SEE attached

Additional conditions are attached in APPENDIX F

Date: February 2, 2007

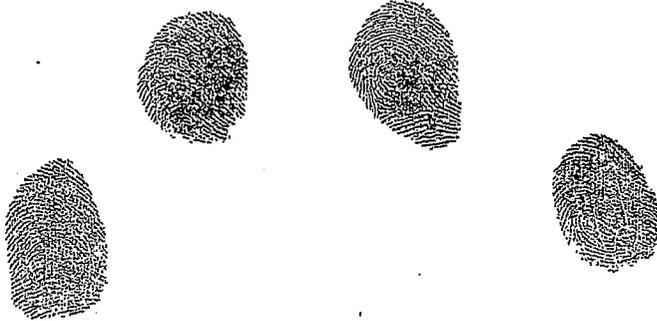
[Signature]
JUDGE
Print Name: J SPECTOR

Presented by [Signature]
Deputy Prosecuting Attorney, WSBA# 21912
Print Name: BALIN

Approved as to form:
[Signature]
Attorney for Defendant, WSBA # 20271
Print Name: MARK A. CARONAZI

FINGERPRINTS

BEST AVAILABLE IMAGE POSSIBLE



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE:
DEFENDANT'S ADDRESS:

Willie
2505-34 Ave W

DATED: FEB 02 2007

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK

[Signature]
JUDGE, KING COUNTY SUPERIOR COURT
JULIE SPECTOR

BY: *[Signature]*
DEPUTY CLERK

CERTIFICATE

OFFENDER IDENTIFICATION

I, _____,
CLERK OF THIS COURT, CERTIFY THAT
THE ABOVE IS A TRUE COPY OF THE
JUDGEMENT AND SENTENCE IN THIS
ACTION ON RECORD IN MY OFFICE.
DATED: _____

S.I.D., NO.

DOB:

SEX:

RACE:

CLERK

BY: _____
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Michael Webb

Defendant.

No. *05-1-13591-0 SEA*

APPENDIX G
ORDER FOR BIOLOGICAL TESTING
AND COUNSELING

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

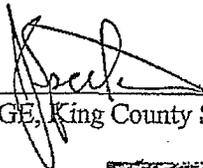
(2) HIV TESTING AND COUNSELING (RCW 70.24.340):

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date: *February 2, 2007*



JUDGE, King County Superior Court
JULIE SPECTOR

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Michael Webb

Defendant,

No. 05-1-13591-05EA

JUDGMENT AND SENTENCE
APPENDIX H
COMMUNITY PLACEMENT OR
COMMUNITY CUSTODY

The Defendant shall comply with the following conditions of community placement or community custody pursuant to RCW 9.94A.700(4), (5):

- 1) Report to and be available for contact with the assigned community corrections officer as directed;
- 2) Work at Department of Corrections-approved education, employment, and/or community service;
- 3) Not possess or consume controlled substances except pursuant to lawfully issued prescriptions;
- 4) Pay supervision fees as determined by the Department of Corrections;
- 5) Receive prior approval for living arrangements and residence location;
- 6) Not own, use, or possess a firearm or ammunition. (RCW 9.94A.720(2));
- 7) Notify community corrections officer of any change in address or employment; and
- 8) Remain within geographic boundary, as set forth in writing by the Department of Corrections Officer or as set forth with SODA order.

OTHER SPECIAL CONDITIONS:

The defendant shall not consume any alcohol.
 Defendant shall have no contact with: _____

Defendant shall remain within outside of a specified geographical boundary, to wit: _____

The defendant shall participate in the following crime-related treatment or counseling services: _____

The defendant shall comply with the following crime-related prohibitions:
see Appendix F

Other conditions may be imposed by the court or Department during community custody.

Community Placement or Community Custody shall begin upon completion of the term(s) of confinement imposed herein or when the defendant is transferred to Community Custody in lieu of earned early release. The defendant shall remain under the supervision of the Department of Corrections and follow explicitly the instructions and conditions established by that agency. The Department may require the defendant to perform affirmative acts deemed appropriate to monitor compliance with the conditions [RCW 9.94A.720] and may issue warrants and/or detain defendants who violate a condition [RCW 9.94A.740].

Date: February 2, 2007

[Signature]
JUDGE
JULIE SPECTOR

APPENDIX B

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2007 FEB 26 PM 3:42

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

THE SUPERIOR COURT FOR THE STATE OF WASHINGTON, KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

MICHAEL KENNETH WEBB

Defendant

) Case No.: 05-1-13501SEA

) NOTICE OF APPEAL TO THE COURT OF
) APPEALS, DIVISION I

~~COPY TO COURT OF APPEALS~~ FEB 27 2007
COPY TO COURT OF APPEALS

The above-named defendant seeks review by the designated appellate court of the Judgment and Sentence, mistrial, and stipulated trial, from the following dates:

September 5 - 7, 2006;

September 10 - 14, 2006;

December 28, 2006; and

February 2, 2007.

DATED this 26th day of February, 2007.

Attorney for Plaintiff
King County Prosecutor
King County Courthouse - W554
Seattle, WA 98104



Attorney for Defendant
Walsh & Larranaga
705 Second Ave. Ste 405
Seattle, WA 98104
206.325.7900

Counsel on Appeal:

Address of Defendant:



APPENDIX C



King County

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2007 JUL 26 PM 3:10
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

NORM MALENG
OFFICE OF THE PROSECUTING ATTORNEY

CRIMINAL DIVISION
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9552
Hours: 8:30 AM to 4:30 PM

RE: RESTITUTION REQUEST

July 26, 2007

STATE V. MICHAEL WEBB
REFERRAL NO.: 2051121102

CCN: 1824899
CAUSE NO.: 05-1-13591-0 SEA

THIS OFFICE HAS BEEN REQUESTED TO DETERMINE RESTITUTION FOR THE ABOVE CASE. THERE WILL BE NO RESTITUTION ORDERED IN THIS CASE FOR THE FOLLOWING REASON(S):

THE DEFENDANT IS DECEASED.



VICTIM SERVICES SPECIALIST
BIANCA LEWIS

CC: DEPARTMENT OF CORRECTIONS
CC: JUDGE JULIE SPECTOR
CC: DEFENSE ATTORNEY MARK LARRANAGA
CC: CLERK



APPENDIX D

SEATTLE POST-INTELLIGENCER

http://seattlepi.nwsourc.com/local/6420ap_wa_radio_host_killing.html

 E-mail this  Print this  RSS
Last updated July 30, 2007 12:03 p.m. PT

Man pleads innocent in death of former Seattle talk show host

THE ASSOCIATED PRESS

SEATTLE -- A transient pleaded innocent Monday to first-degree murder in an ax attack on former radio talk show host Mike Webb.

Scott Brian White, 28, who previously lived for a time with Webb but was in a homeless encampment when he was arrested, remained in custody with bail continued at \$1 million after a brief appearance in King County Superior Court. If convicted, he would face a standard sentencing range of 22 to nearly 29 years in prison.

Webb, 51, an outspoken liberal and gay rights advocate, was last seen on April 13 and was reported missing on May 14. His remains were found on June 28 by a property manager in a basement crawl space of his rented house.

An autopsy showed he had been stabbed five times in the shoulder and chest, had been hit five times in the face with an ax or similar weapon, and had a fractured skull.

In filing the charge Friday, prosecutors wrote that White admitted after he was arrested on July 18 that he killed Webb with an ax and hid the body.

White and Webb met in November and lived together for a time, according to court filings. No motive was listed, but police had evidence that White stole a car and money from Webb and had pawned several electronic items from his home, prosecutors wrote.

John McMullen, a friend of Webb, has said he believed Webb offered to help get White off drugs.

Webb hosted a late night talk show on Seattle's KIRO Radio for 10 years before being fired in December 2005, shortly after he was charged with insurance fraud involving a car wreck. He was convicted of insurance fraud in February, sentenced to 240 hours of community service and fined \$1,000.

APPENDIX E

SEATTLE POST-INTELLIGENCER

http://seattlepi.nwsourc.com/local/324514_webb21.html

Webb was killed with an ax

Suspect charged with murder

Last updated July 20, 2007 9:25 p.m. PT

By CAROL SMITH
P-I REPORTER

Scott Brian White told radio talk-show host Mike Webb he was going out for a cigarette in the early morning hours of April 14.

Instead, he told police, he reached under the bed the two shared, grabbed a double-edged ax he had stored there earlier and bludgeoned to death the man who had given him shelter.

White, 28, was charged Friday with first-degree murder in Webb's death and is being held on \$1 million bail.

The slaying, which is described in court documents released Friday, ended what appeared to be a relationship that started when Webb invited the young man to share his home. White was a drifter who had lived on the street for years and had a history of drug use, according to his father.

Webb, 52, met White in November 2006, and shortly after that, White moved into the home that Webb had rented for 14 years in a pleasant residential neighborhood on Queen Anne, he told police.

At the time, Webb worked as an Internet talk-show host. He drove a car loaned to him by one of the dealerships that advertised on his show. The car would become one of the keys in a trail linking White to Webb's death.

This past April, Webb called 911 to report that the loaned car had been stolen. White, who had missed picking Webb up from an appointment, was the last person known to drive the car. The incident apparently prompted Webb to mention to his friends that White had also taken money and other property from him.

White later admitted to Webb he'd taken the car and returned it, according to court documents.

A week later, on Friday, April 13, another friend of Webb's took the radio host to the dentist. Webb was scheduled to have oral surgery on Tuesday of the following week.

Webb did his normal broadcast that Friday evening, but on Sunday, he missed a prearranged appointment with his friend and technical support person, Bob Vesely.

Shortly after that, friends began receiving mysterious text messages sent from Webb's phone. They contained uncharacteristic misspellings, and were signed "Mike" -- something Webb was not known to do. Various messages mentioned Webb was leaving town, and some warned people not to come by the house, court documents say.

Thinking it strange that Webb would text instead of call, his friend Jane Bengtson went by his house just after midnight on April 20. She told police she was met by a "panicked white male, with long dreadlocks." She told police the man, who said he was at the house to see White and that Webb was not at home, seemed nervous and left immediately on foot. A few minutes later, Bengtson received a text message from Webb's phone berating her for coming to Webb's house uninvited.

Webb was eventually reported missing on May 14, after friends and family realized none had talked to or seen Webb.

A property manager and his workers found Webb's body June 28, stuffed in a crawl space, hidden behind boxes and bookshelves. An ax was found near the body, according to the charging papers.

The King County Medical Examiner's Office determined that Webb had suffered stab wounds to the chest, neck and shoulder in addition to five "lengthy lacerations" across his face consistent with ax blows.

In addition to a blood-soaked mattress and blood spatter in the master bedroom, detectives found a gouge in the ceiling "that would be consistent with damage left by an ax." The Seattle Police Department's latent print lab recovered White's bloody fingerprint from a dustpan believed to have been used to clean up the scene.

White pawned several electronic items, including a Hewlett-Packard laptop owned by Webb. He also began using a government-issued credit card belonging to Webb. The card, known as an EBT card, is a means of issuing food stamps and other benefits. Video cameras at various stores captured White using the card.

On Wednesday, detectives, acting on a tip, found White at a transient camp in Trolley Hill Park on Queen Anne Hill.

White initially told police that he had left Webb's house after returning the car to him, then returned a few days later to discover Webb missing. White said he stayed at Webb's house several more weeks.

Confronted with evidence the police had gathered, White admitted killing Webb, then posing as Webb in text messages and e-mails. He also admitted he had tried to use Webb's other credit cards, but could not get them to work.

P-I reporter Carol Smith can be reached at 206-448-8070 or carolsmith@seattlepi.com.

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DECLARATION OF MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, a true copy of the document filed under Court of Appeals No. **59626-8-I** to which this declaration is affixed/attached, was mailed or caused to be delivered to each attorney or party or record for respondent: King County Prosecuting Attorney, appellant and/or other party, at the regular office or residence or drop-off box at the prosecutor's office.


MARIA ARRANZA RILEY, Legal Assistant
Washington Appellate Project

Date: July 31, 2007

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STATE OF WASHINGTON
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